

Senate Engrossed House Bill

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 98

HOUSE BILL 2227

AN ACT

AMENDING SECTION 15-502, ARIZONA REVISED STATUTES; AMENDING SECTION 15-502, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 1 OF THIS ACT; REPEALING SECTION 15-504, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 15-504; AMENDING SECTION 15-536, ARIZONA REVISED STATUTES; AMENDING SECTION 15-536, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 5 OF THIS ACT; AMENDING SECTION 15-536, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 6 OF THIS ACT; AMENDING SECTION 15-538.01, ARIZONA REVISED STATUTES; AMENDING SECTION 15-538.01, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 8 OF THIS ACT; AMENDING SECTION 15-538.01, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 9 OF THIS ACT; AMENDING SECTION 15-539, ARIZONA REVISED STATUTES; AMENDING SECTION 15-539, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 11 OF THIS ACT; AMENDING SECTION 15-541, ARIZONA REVISED STATUTES; AMENDING SECTION 15-541, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 13 OF THIS ACT; AMENDING SECTION 15-544, ARIZONA REVISED STATUTES; AMENDING SECTION 15-544, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 15 OF THIS ACT; RELATING TO SCHOOL DISTRICT EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-502, Arizona Revised Statutes, is amended to
3 read:

4 15-502. Employment of school district personnel; payment of
5 wages of discharged employee

6 A. The governing board MAY at any time may employ and fix the salaries
7 and benefits of employees necessary for the succeeding year. The contracts
8 of all certificated employees shall be in writing, and all employees shall be
9 employed subject to THE PROVISIONS OF section 38-481. The governing board
10 may obtain the services of any employee, including teachers, substitute
11 teachers and administrators, by contracting with a private entity that
12 employs personnel required by the school district.

13 B. A teacher shall not be employed if the teacher has not received a
14 certificate for teaching granted by the proper authorities. If a teacher has
15 filed an application and completed all of the requirements for a certificate
16 but time does not allow a teacher to receive a certificate before the
17 commencement of employment, the conditional certificate shall serve as a
18 certificate for the payment of wages, provided that the teacher files the
19 conditional certificate with the county school superintendent and the
20 certificate is issued within three months of the date of commencing
21 employment. In order to be paid wages beyond the three month period
22 prescribed in this subsection, the teacher shall file the certificate with
23 the county school superintendent. Any contract issued to a teacher who has
24 completed certificate requirements but has not received a certificate shall
25 be specifically contingent upon receipt of such a certificate. The governing
26 board of a school district that is subject to section 15-914.01 shall adhere
27 to the duties described in section 15-302, subsection A, paragraph 9 for
28 purposes of this subsection.

29 C. No dependent, as defined in section 43-1001, of a governing board
30 member may be employed in the school district in which the person to whom
31 such dependent is so related is a governing board member, except by consent
32 of the board.

33 D. The governing board may employ certificated teachers under contract
34 as part-time classroom teachers. Notwithstanding any other statute, a
35 certificated teacher who has been employed by the school district for more
36 than the major portion of three consecutive school years does not lose the
37 entitlement to the procedures prescribed in sections 15-538.01, 15-539
38 through 15-544 and 15-547 if the teacher is employed under contract on a
39 part-time basis for at least forty per cent time. ~~For the purposes of AS~~
40 USED IN this subsection, "forty per cent time" means employed for at least
41 forty per cent of the school day required of full-time teachers of the same
42 grade level or for at least forty per cent of the class load assigned to
43 full-time teachers of the same grade level, as determined by the governing
44 board.

1 ~~E. The governing board may employ a business manager who has expertise~~
2 ~~in finance. For the purposes of this subsection, "expertise in finance"~~
3 ~~means one or more of the following:~~

4 ~~1. A baccalaureate degree in accounting, finance, school finance or~~
5 ~~public finance.~~

6 ~~2. A graduate degree in accounting, finance, school finance or public~~
7 ~~finance.~~

8 ~~3. Other finance training or finance experience that the governing~~
9 ~~board determines is sufficient to qualify the person to administer the~~
10 ~~business operations of the school district.~~

11 ~~F. E. Notwithstanding sections 23-351 and 23-353, if an employee is~~
12 ~~discharged from the service of a school district, the school district shall~~
13 ~~pay the wages due to the employee within ten calendar days from the date of~~
14 ~~discharge.~~

15 ~~G. F. Each school district shall establish policies and procedures to~~
16 ~~provide teachers with personal liability insurance.~~

17 ~~H. Notwithstanding any other law, a school district shall not adopt~~
18 ~~policies that provide employment retention priority for teachers based on~~
19 ~~tenure or seniority.~~

20 Sec. 2. Section 15-502, Arizona Revised Statutes, as amended by
21 section 1 of this act, is amended to read:

22 15-502. Employment of school district personnel; payment of
23 wages of discharged employee

24 A. The governing board may at any time MAY employ and fix the salaries
25 and benefits of employees necessary for the succeeding year. The contracts
26 of all certificated employees shall be in writing, and all employees shall be
27 employed subject to the provisions of section 38-481. The governing board
28 may obtain the services of any employee, including teachers, substitute
29 teachers and administrators, by contracting with a private entity that
30 employs personnel required by the school district.

31 B. A teacher shall not be employed if the teacher has not received a
32 certificate for teaching granted by the proper authorities. If a teacher has
33 filed an application and completed all of the requirements for a certificate
34 but time does not allow a teacher to receive a certificate before the
35 commencement of employment, the conditional certificate shall serve as a
36 certificate for the payment of wages, provided that the teacher files the
37 conditional certificate with the county school superintendent and the
38 certificate is issued within three months of the date of commencing
39 employment. In order to be paid wages beyond the three month period
40 prescribed in this subsection, the teacher shall file the certificate with
41 the county school superintendent. Any contract issued to a teacher who has
42 completed certificate requirements but has not received a certificate shall
43 be specifically contingent upon receipt of such a certificate. The governing
44 board of a school district that is subject to section 15-914.01 shall adhere

1 to the duties described in section 15-302, subsection A, paragraph 9 for
2 purposes of this subsection.

3 C. No dependent, as defined in section 43-1001, of a governing board
4 member may be employed in the school district in which the person to whom
5 such dependent is so related is a governing board member, except by consent
6 of the board.

7 D. The governing board may employ certificated teachers under contract
8 as part-time classroom teachers. Notwithstanding any other statute, a
9 certificated teacher who has been employed by the school district for more
10 than the major portion of three consecutive school years does not lose the
11 entitlement to the procedures prescribed in sections 15-538.01, 15-539
12 through 15-544 and 15-547 if the teacher is employed under contract on a
13 part-time basis for at least forty per cent time. ~~As used in~~ FOR THE
14 PURPOSES OF this subsection, "forty per cent time" means employed for at
15 least forty per cent of the school day required of full-time teachers of the
16 same grade level or for at least forty per cent of the class load assigned to
17 full-time teachers of the same grade level, as determined by the governing
18 board.

19 E. THE GOVERNING BOARD MAY EMPLOY A BUSINESS MANAGER WHO HAS EXPERTISE
20 IN FINANCE. FOR THE PURPOSES OF THIS SUBSECTION, "EXPERTISE IN FINANCE"
21 MEANS ONE OR MORE OF THE FOLLOWING:

22 1. A BACCALAUREATE DEGREE IN ACCOUNTING, FINANCE, SCHOOL FINANCE OR
23 PUBLIC FINANCE.

24 2. A GRADUATE DEGREE IN ACCOUNTING, FINANCE, SCHOOL FINANCE OR PUBLIC
25 FINANCE.

26 3. OTHER FINANCE TRAINING OR FINANCE EXPERIENCE THAT THE GOVERNING
27 BOARD DETERMINES IS SUFFICIENT TO QUALIFY THE PERSON TO ADMINISTER THE
28 BUSINESS OPERATIONS OF THE SCHOOL DISTRICT.

29 ~~E.~~ F. Notwithstanding sections 23-351 and 23-353, if an employee is
30 discharged from the service of a school district, the school district shall
31 pay the wages due to the employee within ten calendar days from the date of
32 discharge.

33 ~~F.~~ G. Each school district shall establish policies and procedures to
34 provide teachers with personal liability insurance.

35 H. NOTWITHSTANDING ANY OTHER LAW, A SCHOOL DISTRICT SHALL NOT ADOPT
36 POLICIES THAT PROVIDE EMPLOYMENT RETENTION PRIORITY FOR TEACHERS BASED ON
37 TENURE OR SENIORITY.

38 Sec. 3. Repeal

39 Section 15-504, Arizona Revised Statutes, is repealed.

40 Sec. 4. Title 15, chapter 5, article 1, Arizona Revised Statutes, is
41 amended by adding a new section 15-504, to read:

42 15-504. Contract days for professional association activities;
43 prohibition

44 SCHOOL DISTRICT EMPLOYMENT CONTRACTS SHALL NOT INCLUDE COMPENSATED DAYS
45 FOR PROFESSIONAL ASSOCIATION ACTIVITIES. FOR THE PURPOSES OF THIS SECTION,

1 PROFESSIONAL ASSOCIATION ACTIVITIES DO NOT INCLUDE CONDUCT THAT OCCURS DURING
2 A FIELD TRIP FOR PUPILS. THIS SECTION DOES NOT PROHIBIT INDIVIDUAL EMPLOYEES
3 OF SCHOOL DISTRICTS FROM TAKING COMPENSATED LEAVE TIME FOR ANY PERSONAL
4 PURPOSE, ANY PROFESSIONAL PURPOSE OR ANY OTHER LAWFUL PURPOSE.

5 Sec. 5. Section 15-536, Arizona Revised Statutes, is amended to read:

6 15-536. Offer of contract to certificated teacher who has not
7 been employed more than three consecutive school
8 years; acceptance; notice to teacher of intention not
9 to reemploy

10 A. Subject to THE PROVISIONS OF sections 15-539, 15-540, 15-541,
11 15-544 and 15-549, the governing board shall, BETWEEN MARCH 15 AND MAY 15
12 offer a teaching contract for the next ensuing school year to each
13 certificated teacher who has not been employed by the school district for
14 more than the major portion of three consecutive school years and who is
15 under a contract of employment with the school district for the current
16 school year, unless, ON OR BEFORE APRIL 15, the governing board, a member of
17 the board acting on behalf of the board or the superintendent of the school
18 district gives notice to the teacher of the board's intention not to offer a
19 teaching contract ~~or~~, unless such teacher has been dismissed pursuant to
20 section 15-538, 15-539, 15-541 or 15-544. The teacher's acceptance of the
21 contract for the ensuing year must be indicated within thirty days from the
22 date of the written contract or the offer is revoked. RECEIPT UNDER THIS
23 SUBSECTION WILL BE DEEMED TO HAVE OCCURRED WHEN THE WRITTEN CONTRACT IS
24 PERSONALLY DELIVERED, PLACED IN THE TEACHER'S SCHOOL PROVIDED MAILBOX,
25 INCLUDING ELECTRONIC MAIL, OR TWO DAYS AFTER BEING PLACED IN A UNITED STATES
26 POSTAL SERVICE MAIL BOX. The teacher accepts the contract by signing the
27 contract and returning it to the governing board or by making a written
28 instrument which accepts the terms of the contract and delivering it to the
29 governing board. If the written instrument includes terms in addition to the
30 terms of the contract offered by the board, the teacher fails to accept the
31 contract.

32 B. Notice of the board's intention not to reemploy the teacher shall
33 be by delivering it personally to the teacher or by sending it by registered
34 or certified mail BEARING A POSTMARK OF ON OR BEFORE APRIL 15, DIRECTED to
35 the teacher at ~~the teacher's~~ HIS place of residence as recorded in the school
36 district records. The notice shall incorporate a statement of reasons for
37 not reemploying the teacher. If the reasons are charges of inadequacy of
38 classroom performance as defined by the governing board pursuant to section
39 15-539, subsection D, the board, or its authorized representative, SHALL, at
40 least ninety days prior to such notice, ~~shall~~ give the teacher written
41 preliminary notice of HIS inadequacy, specifying the nature of the inadequacy
42 with such particularity as to furnish the teacher an opportunity to correct
43 ~~the~~ HIS inadequacies and overcome the grounds for such charge. The governing
44 board may delegate to employees of the governing board the general authority
45 to issue preliminary notices of inadequacy of classroom performance to

1 teachers pursuant to this subsection without the need for prior approval of
2 each notice by the governing board. In all cases in which an employee of the
3 governing board issues a preliminary notice of inadequacy of classroom
4 performance without prior approval by the governing board, the employee shall
5 report its issuance to the governing board within five school days. The
6 written notice of intention not to reemploy shall include a copy of any
7 evaluation pertinent to the charges made and filed with the board.

8 C. Nothing in this section shall be construed SO AS to provide a
9 certificated teacher who has not been employed by the school district for
10 more than the major portion of three consecutive school years and who has
11 received notice of the board's intention not to offer a teaching contract
12 with the right to a hearing pursuant to THE PROVISIONS OF section 15-539,
13 subsection G.

14 Sec. 6. Section 15-536, Arizona Revised Statutes, as amended by
15 section 5 of this act, is amended to read:

16 15-536. Offer of contract to certificated teacher who has not
17 been employed more than three consecutive school
18 years; acceptance; notice to teacher of intention not
19 to reemploy

20 A. Subject to the provisions of sections 15-539, 15-540, 15-541,
21 15-544 and 15-549, the governing board shall, ~~between March 15 and May 15,~~
22 offer a teaching contract for the next ensuing school year to each
23 certificated teacher who has not been employed by the school district for
24 more than the major portion of three consecutive school years and who is
25 under a contract of employment with the school district for the current
26 school year, unless, ~~on or before April 15,~~ the governing board, a member of
27 the board acting on behalf of the board or the superintendent of the school
28 district gives notice to the teacher of the board's intention not to offer a
29 teaching contract, OR unless such teacher has been dismissed pursuant to
30 section 15-538, 15-539, 15-541 or 15-544. The teacher's acceptance of the
31 contract for the ensuing year must be indicated within thirty days from the
32 date of the written contract or the offer is revoked. The teacher accepts
33 the contract by signing the contract and returning it to the governing board
34 or by making a written instrument which accepts the terms of the contract and
35 delivering it to the governing board. If the written instrument includes
36 terms in addition to the terms of the contract offered by the board, the
37 teacher fails to accept the contract.

38 B. Notice of the board's intention not to reemploy the teacher shall
39 be by delivering it personally to the teacher or by sending it by registered
40 or certified mail ~~bearing a postmark of on or before April 15,~~ directed to
41 the teacher at ~~his~~ THE TEACHER'S place of residence as recorded in the school
42 district records. The notice shall incorporate a statement of reasons for
43 not reemploying the teacher. If the reasons are charges of inadequacy of
44 classroom performance as defined by the governing board pursuant to section
45 15-539, subsection D, the board, or its authorized representative, shall, at

1 least ninety days prior to such notice, SHALL give the teacher written
 2 preliminary notice of ~~his~~ inadequacy, specifying the nature of the inadequacy
 3 with such particularity as to furnish the teacher an opportunity to correct
 4 ~~his~~ THE inadequacies and overcome the grounds for such charge. The governing
 5 board may delegate to employees of the governing board the general authority
 6 to issue preliminary notices of inadequacy of classroom performance to
 7 teachers pursuant to this subsection without the need for prior approval of
 8 each notice by the governing board. In all cases in which an employee of the
 9 governing board issues a preliminary notice of inadequacy of classroom
 10 performance without prior approval by the governing board, the employee shall
 11 report its issuance to the governing board within five school days. The
 12 written notice of intention not to reemploy shall include a copy of any
 13 evaluation pertinent to the charges made and filed with the board.

14 C. Nothing in this section shall be construed ~~so as~~ to provide a
 15 certificated teacher who has not been employed by the school district for
 16 more than the major portion of three consecutive school years and who has
 17 received notice of the board's intention not to offer a teaching contract
 18 with the right to a hearing pursuant to ~~the provisions of~~ section 15-539,
 19 subsection G.

20 Sec. 7. Section 15-536, Arizona Revised Statutes, as amended by
 21 section 6 of this act, is amended to read:

22 15-536. Offer of contract to certificated teacher who has not
 23 been employed more than three consecutive school
 24 years; acceptance; notice to teacher of intention not
 25 to reemploy

26 A. Subject to sections 15-539, 15-540, 15-541, 15-544 and 15-549, the
 27 governing board shall offer a teaching contract for the next ensuing school
 28 year to each certificated teacher who has not been employed by the school
 29 district for more than the major portion of three consecutive school years
 30 and who is under a contract of employment with the school district for the
 31 current school year, unless the governing board, a member of the board acting
 32 on behalf of the board or the superintendent of the school district gives
 33 notice to the teacher of the board's intention not to offer a teaching
 34 contract or unless such teacher has been dismissed pursuant to section
 35 15-538, 15-539, 15-541 or 15-544. The teacher's acceptance of the contract
 36 for the ensuing year must be indicated within ~~thirty~~ FIFTEEN BUSINESS days
 37 from the date of the TEACHER'S RECEIPT OF THE written contract or the offer
 38 is revoked. The teacher accepts the contract by signing the contract and
 39 returning it to the governing board or by making a written instrument which
 40 accepts the terms of the contract and delivering it to the governing board.
 41 If the written instrument includes terms in addition to the terms of the
 42 contract offered by the board, the teacher fails to accept the contract.

43 B. Notice of the board's intention not to reemploy the teacher shall
 44 be by delivering it personally to the teacher or by sending it by registered
 45 or certified mail to the teacher at the teacher's place of residence as

1 recorded in the school district records. The notice shall incorporate a
 2 statement of reasons for not reemploying the teacher. If the reasons are
 3 charges of inadequacy of classroom performance as defined by the governing
 4 board pursuant to section 15-539, subsection D, the board or its authorized
 5 representative, at least ninety days prior to such notice, shall give the
 6 teacher written preliminary notice of inadequacy, specifying the nature of
 7 the inadequacy with such particularity as to furnish the teacher an
 8 opportunity to correct ~~his~~ THE inadequacies and overcome the grounds for such
 9 charge. The governing board may delegate to employees of the governing board
 10 the general authority to issue preliminary notices of inadequacy of classroom
 11 performance to teachers pursuant to this subsection without the need for
 12 prior approval of each notice by the governing board. In all cases in which
 13 an employee of the governing board issues a preliminary notice of inadequacy
 14 of classroom performance without prior approval by the governing board, the
 15 employee shall report its issuance to the governing board within five school
 16 days. The written notice of intention not to reemploy shall include a copy
 17 of any evaluation pertinent to the charges made and filed with the board.

18 C. Nothing in this section shall be construed to provide a
 19 certificated teacher who has not been employed by the school district for
 20 more than the major portion of three consecutive school years and who has
 21 received notice of the board's intention not to offer a teaching contract
 22 with the right to a hearing pursuant to section 15-539, subsection G.

23 Sec. 8. Section 15-538.01, Arizona Revised Statutes, is amended to
 24 read:

25 15-538.01. Offer of contract to certificated teacher employed
 26 more than three consecutive school years

27 A. Subject to THE PROVISIONS OF sections 15-539, 15-540, 15-541,
 28 15-544 and 15-549, the governing board shall, BETWEEN MARCH 15 AND MAY 15,
 29 offer to each certificated teacher who has been employed by the school
 30 district for more than the major portion of three consecutive school years
 31 and who is under contract of employment with the school district for the
 32 current year a contract renewal for the next ensuing school year unless ON OR
 33 BEFORE MAY 15 the governing board, a member of the board acting on behalf of
 34 the board or the superintendent of the school district gives notice to the
 35 teacher of the board's intent not to offer a contract and to dismiss the
 36 teacher as provided in section 15-539.

37 B. The teacher's acceptance of the contract must be indicated within
 38 ~~thirty~~ FIFTEEN BUSINESS days from the date of the TEACHER'S RECEIPT OF THE
 39 written contract or the offer of a contract is revoked. RECEIPT UNDER THIS
 40 SUBSECTION WILL BE DEEMED TO HAVE OCCURRED WHEN THE WRITTEN CONTRACT IS
 41 PERSONALLY DELIVERED, PLACED IN THE TEACHER'S SCHOOL PROVIDED MAILBOX,
 42 INCLUDING ELECTRONIC MAIL, OR TWO DAYS AFTER BEING PLACED IN A UNITED STATES
 43 POSTAL SERVICE MAIL BOX. The teacher accepts the contract by signing the
 44 contract and returning it to the governing board or by making a written
 45 instrument which accepts the terms of the contract and delivering it to the

1 governing board. If the written instrument includes terms in addition to the
2 terms of the contract offered by the board, the teacher fails to accept the
3 contract.

4 C. IF DISMISSAL PROCEEDINGS IN REFERENCE TO THE TEACHER CANNOT BE
5 COMPLETED BY MAY 15 THROUGH NO FAULT OF THE GOVERNING BOARD OR THE
6 SUPERINTENDENT, OR IF THE INCIDENTS RELIED ON IN WHOLE OR IN PART OCCURRED
7 AFTER MAY 15, DISMISSAL PROCEEDINGS MAY CONTINUE OR BE INITIATED.

8 Sec. 9. Section 15-538.01, Arizona Revised Statutes, as amended by
9 section 8 of this act, is amended to read:

10 15-538.01. Offer of contract to certificated teacher employed
11 more than three consecutive school years

12 A. Subject to ~~the provisions of~~ sections 15-539, 15-540, 15-541,
13 15-544 and 15-549, the governing board shall, ~~between March 15 and May 15,~~
14 offer to each certificated teacher who has been employed by the school
15 district for more than the major portion of three consecutive school years
16 and who is under contract of employment with the school district for the
17 current year a contract renewal for the next ensuing school year unless ~~on or~~
18 ~~before May 15~~ the governing board, a member of the board acting on behalf of
19 the board or the superintendent of the school district gives notice to the
20 teacher of the board's intent not to offer a contract and to dismiss the
21 teacher as provided in section 15-539.

22 B. The teacher's acceptance of the contract must be indicated within
23 thirty days from the date of the written contract or the offer of a contract
24 is revoked. The teacher accepts the contract by signing the contract and
25 returning it to the governing board or by making a written instrument which
26 accepts the terms of the contract and delivering it to the governing board.
27 If the written instrument includes terms in addition to the terms of the
28 contract offered by the board, the teacher fails to accept the contract.

29 ~~C. If dismissal proceedings in reference to the teacher cannot be~~
30 ~~completed by May 15 through no fault of the governing board or the~~
31 ~~superintendent, or if the incidents relied on in whole or in part occurred~~
32 ~~after May 15, dismissal proceedings may continue or be initiated.~~

33 Sec. 10. Section 15-538.01, Arizona Revised Statutes, as amended by
34 section 9 of this act, is amended to read:

35 15-538.01. Offer of contract to certificated teacher employed
36 more than three consecutive school years

37 A. Subject to sections 15-539, 15-540, 15-541, 15-544 and 15-549, the
38 governing board shall offer to each certificated teacher who has been
39 employed by the school district for more than the major portion of three
40 consecutive school years and who is under contract of employment with the
41 school district for the current year a contract renewal for the next ensuing
42 school year unless the governing board, a member of the board acting on
43 behalf of the board or the superintendent of the school district gives notice
44 to the teacher of the board's intent not to offer a contract and to dismiss
45 the teacher as provided in section 15-539.

1 B. The teacher's acceptance of the contract must be indicated within
2 ~~thirty~~ FIFTEEN BUSINESS days from the date of the written contract or the
3 offer of a contract is revoked. The teacher accepts the contract by signing
4 the contract and returning it to the governing board or by making a written
5 instrument which accepts the terms of the contract and delivering it to the
6 governing board. If the written instrument includes terms in addition to the
7 terms of the contract offered by the board, the teacher fails to accept the
8 contract.

9 Sec. 11. Section 15-539, Arizona Revised Statutes, is amended to read:

10 15-539. Dismissal of certificated teacher; due process; written
11 charges; notice; hearing on request

12 A. ~~On~~ UPON a written statement of charges presented by the
13 superintendent, charging that there exists cause for the suspension without
14 pay for a period of time greater than ten school days or dismissal of a
15 certificated teacher of the district, the governing board SHALL, except as
16 otherwise provided in this article, ~~shall~~ give notice to the teacher of its
17 intention to suspend without pay or dismiss the teacher at the expiration of
18 ~~ten~~ THIRTY days from the date of the service of the notice.

19 B. Whenever the superintendent presents a statement of charges wherein
20 the alleged cause for dismissal constitutes immoral or unprofessional
21 conduct, the governing board may adopt a resolution that a complaint be filed
22 with the department of education. Pending disciplinary action by the state
23 board of education, the certificated teacher may be reassigned by the
24 superintendent or placed on administrative leave by the board pursuant to
25 section 15-540.

26 C. The governing board shall give a certificated teacher who has been
27 employed by the school district for more than the major portion of three
28 consecutive school years notice of intention to dismiss if its intention to
29 dismiss is based on charges of inadequacy of classroom performance as defined
30 by the governing board pursuant to subsection D of this section. The
31 governing board or its authorized representative shall give the teacher a
32 written preliminary notice of inadequacy of classroom performance at least
33 ten instructional days ~~before~~ PRIOR TO the start of the period of time within
34 which to correct the inadequacy and overcome the grounds for the charge. The
35 governing board may delegate to employees of the governing board the general
36 authority to issue preliminary notices of inadequacy of classroom performance
37 to teachers pursuant to this section without the need for prior approval of
38 each notice by the governing board. In all cases in which an employee of the
39 governing board issues a preliminary notice of inadequacy of classroom
40 performance without prior approval by the governing board, the employee shall
41 report its issuance to the governing board within five school days. The
42 written preliminary notice of inadequacy of classroom performance shall
43 specify the nature of the inadequacy of classroom performance with such
44 particularity as to furnish the teacher an opportunity to correct the
45 teacher's inadequacies and overcome the grounds for the charge. The written

1 preliminary notice of inadequacy of classroom performance shall be based on a
2 valid evaluation according to school district procedure, shall include a copy
3 of any evaluation pertinent to the charges made and shall state the date by
4 which the teacher has to correct the inadequacy and overcome the grounds for
5 the charge. That evaluation shall not be conducted within two instructional
6 days of any school break of one week or more. The written preliminary notice
7 of inadequacy of classroom performance shall allow the teacher not less than
8 ~~sixty~~ EIGHTY-FIVE instructional days within which to correct the inadequacy
9 and overcome the grounds for the charge. If within the time specified in the
10 written preliminary notice of inadequacy of classroom performance the teacher
11 does not demonstrate adequate classroom performance, the governing board
12 shall dismiss the teacher either within ~~ten~~ THIRTY days of the service of a
13 subsequent notice of intention to dismiss or by the end of the contract year
14 in which the subsequent notice of intention to dismiss is served unless the
15 teacher has requested a hearing as provided in subsection G of this section.
16 If the teacher demonstrates adequate classroom performance during the period
17 allowed to correct such deficiencies as specified in the written preliminary
18 notice of inadequacy of classroom performance, the governing board may not
19 dismiss the teacher for the reasons specified in the written preliminary
20 notice of inadequacy of classroom performance. If the governing board of a
21 school district has received approval to budget for a career ladder program,
22 the governing board may define inadequacy of classroom performance by
23 establishing a single level of performance ~~that~~ WHICH is required of all
24 teachers or by establishing more than one required level of performance. If
25 more than one level is established, the same level of performance for minimum
26 adequacy shall be required of all teachers who have completed the same number
27 of years of teaching in the district.

28 D. The governing board shall develop a definition of inadequacy of
29 classroom performance that applies to notices issued pursuant to section
30 15-536, section 15-538 and this section. The governing board shall develop
31 its definition of inadequacy of classroom performance in consultation with
32 its certificated teachers. The consultation may be accomplished by holding a
33 public hearing, forming an advisory committee, providing teachers the
34 opportunity to respond to a proposed definition or obtaining teacher approval
35 of a career ladder program ~~that~~ WHICH defines inadequacy of classroom
36 performance.

37 E. Any written statement of charges alleging unprofessional conduct,
38 conduct in violation of the rules or policies of the governing board or
39 inadequacy of classroom performance shall specify instances of behavior and
40 the acts or omissions constituting the charge so that the certificated
41 teacher will be able to prepare a defense. If applicable, it shall state the
42 statutes, rules or written objectives of the governing board ~~that~~ WHICH the
43 certificated teacher is alleged to have violated and set forth the facts
44 relevant to each occasion of alleged unprofessional conduct, conduct in

1 violation of the rules or policies of the governing board or inadequacy of
2 classroom performance.

3 F. The notice shall be in writing and shall be served ~~on~~ UPON the
4 certificated teacher personally or by United States registered or certified
5 mail addressed to the teacher's last known address. A copy of the charges,
6 together with a copy of this section and sections 15-501, 15-538.01, 15-540,
7 15-541, 15-542 and 15-544 through 15-547, shall be attached to the notice.

8 G. The certificated teacher who receives notice that there exists
9 cause for dismissal or suspension without pay shall have the right to a
10 hearing if the teacher files a written request with the governing board
11 within ~~ten~~ THIRTY days of service of notice. The filing of a timely request
12 shall suspend the imposition of a suspension without pay or a dismissal
13 pending completion of the hearing.

14 Sec. 12. Section 15-539, Arizona Revised Statutes, as amended by
15 section 11 of this act, is amended to read:

16 15-539. Dismissal of certificated teacher; due process; written
17 charges; notice; hearing on request

18 A. ~~Upon~~ ON a written statement of charges presented by the
19 superintendent, charging that there exists cause for the suspension without
20 pay for a period of time greater than ten school days or dismissal of a
21 certificated teacher of the district, the governing board ~~shall~~, except as
22 otherwise provided in this article, SHALL give notice to the teacher of its
23 intention to suspend without pay or dismiss the teacher at the expiration of
24 ~~thirty~~ TEN days from the date of the service of the notice.

25 B. Whenever the superintendent presents a statement of charges wherein
26 the alleged cause for dismissal constitutes immoral or unprofessional
27 conduct, the governing board may adopt a resolution that a complaint be filed
28 with the department of education. Pending disciplinary action by the state
29 board of education, the certificated teacher may be reassigned by the
30 superintendent or placed on administrative leave by the board pursuant to
31 section 15-540.

32 C. The governing board shall give a certificated teacher who has been
33 employed by the school district for more than the major portion of three
34 consecutive school years notice of intention to dismiss if its intention to
35 dismiss is based on charges of inadequacy of classroom performance as defined
36 by the governing board pursuant to subsection D of this section. The
37 governing board or its authorized representative shall give the teacher a
38 written preliminary notice of inadequacy of classroom performance at least
39 ten instructional days ~~prior to~~ BEFORE the start of the period of time within
40 which to correct the inadequacy and overcome the grounds for the charge. The
41 governing board may delegate to employees of the governing board the general
42 authority to issue preliminary notices of inadequacy of classroom performance
43 to teachers pursuant to this section without the need for prior approval of
44 each notice by the governing board. In all cases in which an employee of the
45 governing board issues a preliminary notice of inadequacy of classroom

1 performance without prior approval by the governing board, the employee shall
2 report its issuance to the governing board within five school days. The
3 written preliminary notice of inadequacy of classroom performance shall
4 specify the nature of the inadequacy of classroom performance with such
5 particularity as to furnish the teacher an opportunity to correct the
6 teacher's inadequacies and overcome the grounds for the charge. The written
7 preliminary notice of inadequacy of classroom performance shall be based on a
8 valid evaluation according to school district procedure, shall include a copy
9 of any evaluation pertinent to the charges made and shall state the date by
10 which the teacher has to correct the inadequacy and overcome the grounds for
11 the charge. That evaluation shall not be conducted within two instructional
12 days of any school break of one week or more. The written preliminary notice
13 of inadequacy of classroom performance shall allow the teacher not less than
14 ~~eighty-five~~ SIXTY instructional days within which to correct the inadequacy
15 and overcome the grounds for the charge. If within the time specified in the
16 written preliminary notice of inadequacy of classroom performance the teacher
17 does not demonstrate adequate classroom performance, the governing board
18 shall dismiss the teacher either within ~~thirty~~ TEN days of the service of a
19 subsequent notice of intention to dismiss or by the end of the contract year
20 in which the subsequent notice of intention to dismiss is served unless the
21 teacher has requested a hearing as provided in subsection G of this section.
22 If the teacher demonstrates adequate classroom performance during the period
23 allowed to correct such deficiencies as specified in the written preliminary
24 notice of inadequacy of classroom performance, the governing board may not
25 dismiss the teacher for the reasons specified in the written preliminary
26 notice of inadequacy of classroom performance. If the governing board of a
27 school district has received approval to budget for a career ladder program,
28 the governing board may define inadequacy of classroom performance by
29 establishing a single level of performance ~~which~~ THAT is required of all
30 teachers or by establishing more than one required level of performance. If
31 more than one level is established, the same level of performance for minimum
32 adequacy shall be required of all teachers who have completed the same number
33 of years of teaching in the district.

34 D. The governing board shall develop a definition of inadequacy of
35 classroom performance that applies to notices issued pursuant to section
36 15-536, section 15-538 and this section. The governing board shall develop
37 its definition of inadequacy of classroom performance in consultation with
38 its certificated teachers. The consultation may be accomplished by holding a
39 public hearing, forming an advisory committee, providing teachers the
40 opportunity to respond to a proposed definition or obtaining teacher approval
41 of a career ladder program ~~which~~ THAT defines inadequacy of classroom
42 performance.

43 E. Any written statement of charges alleging unprofessional conduct,
44 conduct in violation of the rules or policies of the governing board or
45 inadequacy of classroom performance shall specify instances of behavior and

1 the acts or omissions constituting the charge so that the certificated
2 teacher will be able to prepare a defense. If applicable, it shall state the
3 statutes, rules or written objectives of the governing board ~~which~~ THAT the
4 certificated teacher is alleged to have violated and set forth the facts
5 relevant to each occasion of alleged unprofessional conduct, conduct in
6 violation of the rules or policies of the governing board or inadequacy of
7 classroom performance.

8 F. The notice shall be in writing and shall be served ~~upon~~ ON the
9 certificated teacher personally or by United States registered or certified
10 mail addressed to the teacher's last known address. A copy of the charges,
11 together with a copy of this section and sections 15-501, 15-538.01, 15-540,
12 15-541, 15-542 and 15-544 through 15-547, shall be attached to the notice.

13 G. The certificated teacher who receives notice that there exists
14 cause for dismissal or suspension without pay shall have the right to a
15 hearing if the teacher files a written request with the governing board
16 within ~~thirty~~ TEN days of service of notice. The filing of a timely request
17 shall suspend the imposition of a suspension without pay or a dismissal
18 pending completion of the hearing.

19 Sec. 13. Section 15-541, Arizona Revised Statutes, is amended to read:

20 15-541. Hearing on dismissal

21 A. The governing board shall decide whether to hold a hearing on the
22 dismissal or suspension without pay for a period of time longer than ten days
23 of a certificated teacher as provided in this article. If the governing
24 board decides not to hold a hearing, the governing board shall designate a
25 hearing officer to hold the hearing, hear the evidence, prepare a record and
26 issue a recommendation to the governing board for action. The governing
27 board may provide by policy or vote at its annual organizational meeting that
28 all hearings conducted pursuant to this section ~~shall~~ WILL be conducted
29 before a hearing officer. The hearing officer ~~shall~~ WILL be mutually agreed
30 upon by the parties to the hearing. If the parties cannot mutually agree on
31 a hearing officer, a hearing officer ~~shall~~ WILL be selected by the governing
32 board from a list provided by the department of education or the American
33 arbitration association. The hearing shall be held not less than ~~fifteen~~ TEN
34 nor more than ~~thirty~~ TWENTY-FIVE days after the request is filed unless all
35 parties to the hearing mutually agree to a different hearing date, and notice
36 of the time and place of the hearing shall be given to the teacher not less
37 than three days before the date of the hearing. The teacher may request that
38 the hearing be conducted in public or private. At the hearing the teacher
39 may appear in person and by counsel, if desired, and may present any
40 testimony, evidence or statements, either oral or in writing, in the
41 teacher's behalf. The governing board or the hearing officer shall prepare
42 an official record of the hearing, including all testimony recorded manually
43 or by mechanical device, and exhibits. The teacher who is the subject of the
44 hearing may not request that the testimony be transcribed unless the teacher
45 agrees in writing to pay the actual cost of the transcription. Within ten

1 days after a hearing conducted by the governing board, the board shall
2 determine whether there existed good and just cause for the notice of
3 dismissal or suspension and shall render its decision accordingly, either
4 affirming or withdrawing the notice of dismissal or suspension. Within ten
5 days after a hearing conducted by a hearing officer, the hearing officer
6 shall deliver a written recommendation to the governing board that includes
7 findings of fact and conclusions. Parties to the hearing have the right to
8 object to the findings of the hearing officer and present oral and written
9 arguments to the governing board.

10 B. A hearing held pursuant to this section may not be conducted by any
11 hearing officer having a personal interest which would conflict with the
12 ~~hearing officer's~~ HIS OR HER objectivity in the hearing. The governing board
13 has an additional ten days to determine whether good and just cause existed
14 for the notice of dismissal or suspension and shall render its decision
15 accordingly, either affirming or withdrawing the notice of suspension or
16 dismissal. Good and just cause does not include religious or political
17 beliefs or affiliations unless they are in violation of the oath of the
18 teacher.

19 Sec. 14. Section 15-541, Arizona Revised Statutes, as amended by
20 section 13 of this act, is amended to read:

21 15-541. Hearing on dismissal

22 A. The governing board shall decide whether to hold a hearing on the
23 dismissal or suspension without pay for a period of time longer than ten days
24 of a certificated teacher as provided in this article. If the governing
25 board decides not to hold a hearing, the governing board shall designate a
26 hearing officer to hold the hearing, hear the evidence, prepare a record and
27 issue a recommendation to the governing board for action. The governing
28 board may provide by policy or vote at its annual organizational meeting that
29 all hearings conducted pursuant to this section ~~will~~ SHALL be conducted
30 before a hearing officer. The hearing officer ~~will~~ SHALL be mutually agreed
31 upon by the parties to the hearing. If the parties cannot mutually agree on
32 a hearing officer, a hearing officer ~~will~~ SHALL be selected by the governing
33 board from a list provided by the department of education or the American
34 arbitration association. The hearing shall be held not less than ~~ten~~ FIFTEEN
35 nor more than ~~twenty-five~~ THIRTY days after the request is filed unless all
36 parties to the hearing mutually agree to a different hearing date, and notice
37 of the time and place of the hearing shall be given to the teacher not less
38 than three days before the date of the hearing. The teacher may request that
39 the hearing be conducted in public or private. At the hearing the teacher
40 may appear in person and by counsel, if desired, and may present any
41 testimony, evidence or statements, either oral or in writing, in the
42 teacher's behalf. The governing board or the hearing officer shall prepare
43 an official record of the hearing, including all testimony recorded manually
44 or by mechanical device, and exhibits. The teacher who is the subject of the
45 hearing may not request that the testimony be transcribed unless the teacher

1 agrees in writing to pay the actual cost of the transcription. Within ten
2 days after a hearing conducted by the governing board, the board shall
3 determine whether there existed good and just cause for the notice of
4 dismissal or suspension and shall render its decision accordingly, either
5 affirming or withdrawing the notice of dismissal or suspension. Within ten
6 days after a hearing conducted by a hearing officer, the hearing officer
7 shall deliver a written recommendation to the governing board that includes
8 findings of fact and conclusions. Parties to the hearing have the right to
9 object to the findings of the hearing officer and present oral and written
10 arguments to the governing board.

11 B. A hearing held pursuant to this section may not be conducted by any
12 hearing officer having a personal interest which would conflict with ~~his or~~
13 ~~her~~ THE HEARING OFFICER'S objectivity in the hearing. The governing board
14 has an additional ten days to determine whether good and just cause existed
15 for the notice of dismissal or suspension and shall render its decision
16 accordingly, either affirming or withdrawing the notice of suspension or
17 dismissal. Good and just cause does not include religious or political
18 beliefs or affiliations unless they are in violation of the oath of the
19 teacher.

20 Sec. 15. Section 15-544, Arizona Revised Statutes, is amended to read:
21 15-544. Limitations on reduction of salaries or personnel

22 A. A governing board may reduce salaries or eliminate certificated
23 teachers in a school district in order to effectuate economies in the
24 operation of the district or to improve the efficient conduct and
25 administration of the schools of the school district, BUT NO REDUCTION IN THE
26 SALARY OF A CERTIFICATED TEACHER WHO HAS BEEN EMPLOYED BY THE SCHOOL DISTRICT
27 FOR MORE THAN THE MAJOR PORTION OF THREE CONSECUTIVE SCHOOL YEARS SHALL BE
28 MADE EXCEPT IN ACCORDANCE WITH A GENERAL SALARY REDUCTION IN THE SCHOOL
29 DISTRICT BY WHICH THE TEACHER IS EMPLOYED, AND IN SUCH CASE THE REDUCTION
30 SHALL BE APPLIED EQUITABLY AMONG ALL SUCH TEACHERS.

31 B. Notice of a general salary reduction shall be given each
32 certificated teacher affected NOT LATER THAN MAY 15 BEFORE THE FISCAL YEAR IN
33 WHICH THE REDUCTION IS TO TAKE EFFECT.

34 C. A CERTIFICATED TEACHER DISMISSED FOR REASONS OF ECONOMY OR TO
35 IMPROVE THE EFFICIENT CONDUCT AND ADMINISTRATION OF THE SCHOOLS OF THE SCHOOL
36 DISTRICT SHALL HAVE A PREFERRED RIGHT OF REAPPOINTMENT IN THE ORDER OF
37 ORIGINAL EMPLOYMENT BY THE GOVERNING BOARD IN THE EVENT OF AN INCREASE IN THE
38 NUMBER OF CERTIFICATED TEACHERS OR THE REESTABLISHMENT OF SERVICES WITHIN A
39 PERIOD OF THREE YEARS.

40 ~~E.~~ D. The provisions of this section do not apply to reductions in
41 salary from monies from the classroom site fund pursuant to section 15-977.

1 Sec. 16. Section 15-544, Arizona Revised Statutes, as amended by
2 section 15 of this act, is amended to read:

3 15-544. Limitations on reduction of salaries or personnel

4 A. A governing board may reduce salaries or eliminate certificated
5 teachers in a school district in order to effectuate economies in the
6 operation of the district or to improve the efficient conduct and
7 administration of the schools of the school district, ~~but no reduction in the~~
8 ~~salary of a certificated teacher who has been employed by the school district~~
9 ~~for more than the major portion of three consecutive school years shall be~~
10 ~~made except in accordance with a general salary reduction in the school~~
11 ~~district by which the teacher is employed, and in such case the reduction~~
12 ~~shall be applied equitably among all such teachers.~~

13 B. Notice of a general salary reduction shall be given each
14 certificated teacher affected ~~not later than May 15 before the fiscal year in~~
15 ~~which the reduction is to take effect.~~

16 C. ~~A certificated teacher dismissed for reasons of economy or to~~
17 ~~improve the efficient conduct and administration of the schools of the school~~
18 ~~district shall have a preferred right of reappointment in the order of~~
19 ~~original employment by the governing board in the event of an increase in the~~
20 ~~number of certificated teachers or the reestablishment of services within a~~
21 ~~period of three years.~~

22 D. C. The provisions of this section do not apply to reductions in
23 salary from monies from the classroom site fund pursuant to section 15-977.

24 Sec. 17. Career ladder programs; maximum base level increase
25 for fiscal year 2009-2010

26 A. Notwithstanding section 15-918.04, Arizona Revised Statutes, for
27 fiscal year 2009-2010 the maximum base level increase that is permitted for a
28 school district that participates in the career ladder program shall be five
29 per cent.

30 B. For fiscal year 2009-2010, the career ladder program is limited
31 only to teachers who participated in the program in the prior fiscal year.

32 Sec. 18. Retroactivity

33 Section 15-502, Arizona Revised Statutes, as amended by sections 1 and
34 2 of this act, section 3 of this act, section 15-504, Arizona Revised
35 Statutes, as added by this act, section 15-536, Arizona Revised Statutes, as
36 amended by sections 5 and 6 of this act, section 15-538.01, Arizona Revised
37 Statutes, as amended by sections 8 and 9 of this act, section 15-539, Arizona
38 Revised Statutes, as amended by sections 11 and 12 of this act, section
39 15-541, Arizona Revised Statutes, as amended by sections 13 and 14 of this
40 act, section 15-544, Arizona Revised Statutes, as amended by sections 15 and
41 16 of this act and section 17 of this act are effective retroactively to
42 November 24, 2009.

APPROVED BY THE GOVERNOR APRIL 20, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 21, 2010.